

Title 58—RECREATION

PENNSYLVANIA GAMING CONTROL BOARD [58 PA. CODE CHS. 401, 405, 421, 441, 494 AND 499]

Temporary Regulations; Licensing

Under the Pennsylvania Gaming Control Board's (Board) Resolution Nos. 2005-3 REG, 2005-4 REG, 2005-5 REG and 2006-4 REG, the Board has the authority to amend the temporary regulations adopted on June 16, 2005, July 21, 2005, September 28, 2005, and March 16, 2006, as it deems necessary in accordance with the purpose of the act of July 5, 2004 (P. L. 572, No. 71) (Act 71) and to further the intent of Act 71. Accordingly, the Board has decided to make editorial changes to the temporary regulations, dated June 16, 2005, July 21, 2005, September 28, 2005, and March 16, 2006, as deposited with the Legislative Reference Bureau (Bureau) and published at 35 Pa.B. 4045 (July 16, 2005), 35 Pa.B. 4543 (August 6, 2005), 35 Pa.B. 6407 (November 19, 2005) and 36 Pa.B. 1578 (April 1, 2006).

Therefore, the Board has deposited with the Bureau amendments to §§ 401.4, 401.5, 405.2, 421.1, 421.3, 441.4, 494.1 and 499.1. The amendments are effective as of May 19, 2006.

The temporary regulations of the Board in Chapters 401, 405, 421, 441, 494 and 499 are amended by amending §§ 401.4, 401.5, 405.2, 421.1, 421.3, 441.4, 494.1 and 499.1 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

Order

The Board, acting under the authorizing statute, orders that:

(a) The Board, acting under the authority of Act 71, adopts the amendments to the temporary regulations adopted by resolution at the May 19, 2006, public meeting. The amendments to the temporary regulations pertain to definitions, the Bureau of Investigations and Enforcement, general licensing requirements, slot machine license application requirements and hearings and appeals.

(b) The following temporary regulations of the Board, 58 Pa. Code, Chapters 401, 405, 421, 441, 494 and 499, are amended: §§ 401.4, 401.5, 405.2, 421.1, 421.3, 441.4, 494.1 and 499.1 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(c) The amendments are effective May 19, 2006.

(d) The amendments to the temporary regulations shall be posted in their entirety on the Board's website and published in the *Pennsylvania Bulletin*.

(e) The Chairperson of the Board shall certify this order and deposit the amendments to the temporary regulations with the Legislative Reference Bureau as required by law.

THOMAS A. DECKER,
Chairperson

Fiscal Note: 125-23. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart A. GENERAL PROVISIONS

CHAPTER 401. PRELIMINARY PROVISIONS

§ 401.4. Definitions.

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Gaming area or *gaming floor*—Any portion of a licensed facility where slot machines have been installed for use or play.

* * * * *

§ 401.5. Jurisdiction.

The Board will have exclusive jurisdiction over all matters within the scope of its powers under the act. The Board may take action to enforce its policies, rules and regulations. The Board may, in its discretion and when permitted by law, delegate its authority to perform any of its functions under the act.

CHAPTER 405. BUREAU OF INVESTIGATIONS AND ENFORCEMENT

§ 405.2. Information.

(a) An applicant, licensee, permittee or registrant shall provide all information, data and documents requested by the Bureau of Investigations and Enforcement (Bureau) under section 1517(a) of the act (relating to enforcement).

(b) The Director of the Bureau, the Chief Enforcement Counsel, and their designees, shall have the power and authority to administer oaths and affirmations for the purpose of obtaining voluntary sworn statements with regard to any matter or thing which may properly fall within the jurisdiction of the Board. Additionally, any person so designated shall have the power and authority to obtain by subpoena the sworn statement of a person deemed to have information relevant to an investigation that the Board is authorized to conduct. Designation pursuant to this section will be made in writing, filed with the Clerk of the Board and remain in effect until revoked.

* * * * *

Subpart B. LICENSING, REGISTERING, CERTIFYING AND PERMITTING

CHAPTER 421. GENERAL PROVISIONS

§ 421.1. General requirements.

* * * * *

(g) An individual regulated by this part has a duty to inform the Board of any changes in the information supplied to the Board in or in conjunction with the original application.

§ 421.3. Disqualification criteria.

An application for, issuance or renewal of a license, permit, certification or registration may be denied, suspended or revoked to or from a person or applicant who has failed to prove to the satisfaction of the Board that the person or applicant or any of the persons required to be qualified, are in fact qualified in accordance with the act and with this part, who has violated the act or this

part, who is disqualified under the criteria in the act, who has materially departed from representation made in the application for licensure or renewal, or who has failed to comply with applicable Federal or state laws or regulations. A suspension, nonrenewal, denial or revocation of a license, permit, certification or registration or application thereof may be made for a sufficient cause consistent with the act and the public interest.

Subpart C. SLOT MACHINE LICENSING

CHAPTER 441. SLOT MACHINE LICENSING

§ 441.4. Slot machine license application.

To be eligible for a slot machine license, an applicant shall submit an application which includes the following:

* * * * *

(25) If a temporary facility is to be licensed, a plan for how the licensee will transition to a permanent facility, including a date for completion of the permanent facility. A permanent facility shall be the facility proposed by the applicant, which is designated, identified and made part of the evidentiary record by the applicant at the applicant's licensing hearing. Any modifications to the proposed permanent facility following the applicant's licensing hearing shall be approved by the Board.

* * * * *

Subpart H. PRACTICE AND PROCEDURE

CHAPTER 494. HEARING PROCEDURE

§ 494.1. Generally.

(a) A hearing calendar of all proceedings set for hearing will be maintained by the clerk to the Board. All matters required to be determined upon the record will be placed on the hearing calendar, and will be in their order of assignment as far as practicable. All matters will be heard in Harrisburg, unless a different site shall be determined by the Board. The Board, in its discretion with or without motion, for cause may at any time with due notice to the participants advance or postpone any proceeding on the hearing calendar.

* * * * *

(c) In oral and documentary hearings, neither the Board nor the presiding officer will be bound by technical rules of evidence, and all relevant evidence of reasonably probative value may be received. Reasonable examination and cross-examination will be permitted at all oral hearings. If a party does not testify in his own behalf, he may be called and examined as if under cross-examination.

* * * * *

CHAPTER 499. REPRESENTATION BEFORE THE BOARD

§ 499.1. Appearance in person.

(a) An individual who is a party in a proceeding before the Board may represent himself before the Board.

* * * * *

[Pa.B. Doc. No. 06-1052. Filed for public inspection June 9, 2006, 9:00 a.m.]

**PENNSYLVANIA GAMING CONTROL BOARD
[58 PA. CODE CH. 435]**

Temporary Regulations; Employee Credentialing

The Pennsylvania Gaming Control Board (Board), under 4 Pa.C.S. § 1203(a) (relating to temporary regulations), adopts temporary regulations to facilitate implementation of 4 Pa.C.S. Part II (relating to gaming), enacted by the act of July 5, 2004 (P. L. 572, No. 71) (Act 71). The Board's temporary regulations will be added to Part VII (relating to Gaming Control Board). Chapter 435, entitled Employees, is amended by adding §§ 435.6—435.10 to Subpart B, entitled licensing, registering, certifying and permitting.

Purpose and Background

Under 4 Pa.C.S. § 1203(a), the Board is authorized to promulgate temporary regulations to facilitate the prompt implementation of Act 71. The regulations are necessary to enhance the credibility of the licensed operation of slot machines and associated equipment within this Commonwealth and to carry out the policy and purposes of the Board. To promulgate the temporary regulations in accordance with customary rulemaking procedure, the Board published draft regulations on its website and a 10-day public comment period was provided.

Under 4 Pa.C.S. § 1203(b), the temporary regulations adopted by the Board expire no later than 3 years following the effective date of Act 71 or upon promulgation of regulations as generally provided by the law. These temporary regulations may not subject to sections 201—205 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1208), known as the Commonwealth Documents Law (CDL), or to the Regulatory Review Act (71 P. S. §§ 745.1—745.15).

Financial Impact

Act 71 and the regulations will provide for the implementation and management of gaming within this Commonwealth and the collection of fees and taxes from entities and individuals authorized by the Board to be employed by, provide gaming related services to or operate gaming facilities.

The appropriations from the Commonwealth for the implementation of Act 71 and costs of administering 4 Pa.C.S. Part II will be reimbursed by the licensed entities as specified in Act 71. Individuals and entities that wish to obtain licenses as gaming entities shall pay to the Gaming Fund significant licensing fees to obtain the authority to do business within this Commonwealth. Part of these fees shall reimburse the Board and the Pennsylvania State Police for licensing processes and background investigations. The licensing, registration, certification and permitting of individuals and other classes of applicants will be reimbursed by the applicants through fees established by the Board.

It is anticipated that expenses of the Board and associated activities will be reimbursed by the applicants and gaming entities as previously specified. The Board has no financial impact on the State budget.

Statutory Authority

The Board is authorized under 4 Pa.C.S. § 1203(a) to adopt and publish temporary regulations to implement the policies and purposes of Act 71.

Regulatory Review

Under 4 Pa.C.S. § 1203(b), the Board's authority to adopt temporary regulations expires 2 years from the effective date of Act 71.

Findings

The Board finds that:

(1) Under 4 Pa.C.S. § 1203(a), the temporary regulations are exempt from the requirements of the Regulatory Review Act and sections 201—205 of the CDL.

(2) A 10-day public comment period was held prior to the adoption of the temporary regulations.

(3) The adoption of the temporary regulations provided by this order is necessary and appropriate for the administration of the authorizing statute.

Order

The Board, acting under the authorizing statute, orders that:

(a) The Board, acting under the authority of the Act 71, adopts as its final-form temporary regulations the draft regulations as amended by resolution at the May 19, 2006, public meeting. The temporary regulations pertain to employee credentialing.

(b) The following temporary regulations of the Board, 58 Pa. Code Chapter 435, are amended by adding §§ 435.6—435.10 to read as set forth in Annex A.

(c) The temporary regulations are effective May 19, 2006.

(d) The temporary regulations shall be posted in their entirety on the Board’s website and published in the *Pennsylvania Bulletin*.

(e) The temporary regulations shall be subject to amendment as deemed necessary by the Board in accordance with the purpose of Act 71 and to further the intent of Act 71.

(f) The Chairperson of the Board shall certify this order and deposit the regulations with the Legislative Reference Bureau as required by law.

THOMAS A. DECKER,
Chairperson

Fiscal Note: 125-26. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart B. LICENSING, REGISTERING, CERTIFYING AND PERMITTING

CHAPTER 435. EMPLOYEES

§ 435.6. Credentials generally.

(a) A credential issued to key employee qualifiers, key employees, gaming employees, nongaming employee registrants and state employees subject to § 435.7(c), must include the following information pertaining to the employee:

(1) The name, address, date of birth, sex, height, weight, hair color and eye color of the licensee, permittee or registrant.

(2) A photograph of the face of the individual to whom the credential has been issued which meets the standards of the Commonwealth Photograph Imaging Network.

(b) The credential must also contain the following information:

(1) The inscription “Pennsylvania Gaming Control Board.”

(2) The seal of the Commonwealth.

(3) A license, permit or registration number.

(4) The type of license, permit or registration.

(5) An expiration date.

(6) The signature of the employee.

(7) Other security features as determined by the Board.

§ 435.7. Employee credentials.

(a) Each key employee, gaming employee and nongaming employee registrant shall carry, on his person, his Board-issued credential at all times while engaged in the performance of his duties on the premises of a licensed facility.

(b) Each key employee qualifier whose duties are required to be performed at a licensed facility in excess of 12 days in a 12-month period shall obtain a Board-issued credential while engaged in the performance of his duties on the premises of a licensed facility.

(c) Each State employee, whose duties require the employee’s presence at a licensed facility more frequently than once a month, shall obtain a credential from the Board and carry, on his person, the Board-issued credential at all times while engaged in the performance of the employee’s duties on the premises of a licensed facility.

(d) Except as provided in § 435.8 (relating to emergency credentials), slot machine licensees are prohibited from allowing a key employee qualifier, key employee, gaming employee or nongaming employee registrant to perform his duties on the premises of a licensed facility unless the employee has his Board-issued credentials.

(e) Notwithstanding subsections (a) and (b), the Board may, upon written request by a slot machine licensee and upon a showing of good cause, exempt certain positions, titles or persons from the requirements of this section.

(f) Slot machine licensees shall be required to utilize a secure website for submission of current employee status reports pursuant to a schedule prescribed by the Board.

§ 435.8. Emergency credentials.

(a) An emergency credential that is in a form approved by the Board may be issued by the security department of a slot machine licensee to a key employee qualifier, key employee, gaming employee or nongaming employee who does not have the credential on his person, or whose credential has been stolen, lost or destroyed, to enable the employee to perform his duties at the licensed facility, if the security department of the slot machine licensee performs all of the following prior to issuing the emergency credential:

(1) Verifies that the employee is listed in the slot machine licensee’s current employee status report.

(2) Verifies that the employee holds a valid license, permit or registration.

(3) Confirms the employment and licensure, permit or registration information of the employee with the supervisor of the employee.

(4) Verifies that fewer than 12 temporary credentials have been issued to the particular employee in the past 12 months.

(5) Maintains, in writing, an emergency credentials log containing the following information:

(i) The name, license, permit or registration number of the employee to whom the emergency credential was issued.

(ii) The date and time that the emergency credential was issued.

(iii) The name and license, permit or registration number of the slot machine licensee security department employee issuing the emergency credential.

(iv) The badge number of the emergency credential that was issued.

(6) Provides to the Bureau a copy of the emergency credentials log by December 1 of each year.

(7) Issues emergency credentials for the current year and returns the previous year's emergency credentials to the Board within 30 days of the next calendar year. The Board will impose on the licensee a replacement fee for any unreturned badges.

(b) An emergency credential issued under subsection (a) must be in a form approved by the Board and contain the following information:

(1) A conspicuous statement printed on the face thereof which provides that the credential is void 72 hours after the time of its issuance.

(2) A sequential badge number printed on the face of the credential.

(c) The emergency credential must comply with the following requirements:

(1) Be valid for a time period not to exceed 72 hours.

(2) Be sequentially numbered.

(3) Be stored in the offices of the security department and distributed by that department in accordance with the slot machine licensee's procedures submitted to and approved by the Board.

§ 435.9. Temporary credential.

(a) A temporary credential that has been approved by the Board may be issued by the Board to a key employee qualifier or a key employee whose investigation for licensure by the Board is pending but whose presence is necessary in the licensed facility.

(b) A temporary credential issued under this section must be in a form approved by the Board and contain the following information:

(1) The name and license number of the employee to whom it was issued.

(2) A conspicuous statement printed on the face thereof which provides that the credential is a temporary credential and is void 60 days after the date of its issuance or a time period otherwise authorized by the Board.

(3) The date it was issued.

(c) Ten days prior to the expiration of the temporary credential, the key employee qualifier or key employee may submit a renewal request to the Board. If the renewal request is approved, the temporary credential shall be valid for an additional 30 day period. The key employee qualifier or key employee may continue to renew a temporary credential for a maximum of 6 months.

§ 435.10. Loss or destruction of credential.

(a) Any holder of a Board-issued credential shall promptly report the theft, loss or destruction of a Board-issued credential to the Board.

(b) As soon as possible following the loss or destruction of a credential, the person to whom the credential was

originally issued shall immediately notify the security department of the slot machine licensee.

(c) The security department of the slot machine licensee shall notify the Board in writing in the manner and form prescribed by the Board and may issue an emergency credential in accordance with § 435.8 (relating to emergency credentials).

[Pa.B. Doc. No. 06-1053. Filed for public inspection June 9, 2006, 9:00 a.m.]

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CH. 503]

Temporary Regulations; Self Exclusion

The Pennsylvania Gaming Control Board (Board), under 4 Pa.C.S. § 1203(a) (relating to temporary regulations), adopts temporary regulations to facilitate implementation of 4 Pa.C.S. Part II (relating to gaming), enacted by the act of July 5, 2004 (P. L. 572, No. 71) (Act 71). The Board's temporary regulations will be added to Part VII (relating to Gaming Control Board). Chapter 503, entitled self exclusion, is added to Subpart I, entitled compulsive and problem gambling.

Purpose and Background

Under 4 Pa.C.S. § 1203(a), the Board is authorized to promulgate temporary regulations to facilitate the prompt implementation of Act 71. The regulations are necessary to enhance the credibility of the licensed operation of slot machines and associated equipment within this Commonwealth and to carry out the policy and purposes of the Board. To invite public input, the Board published draft regulations on the Board's website and 10-day public comment period was provided.

Under 4 Pa.C.S. § 1203(b), the temporary regulations adopted by the Board expire no later than 3 years following the effective date of Act 71 or upon promulgation of regulations as generally provided by the law. These temporary regulations are not subject to sections 201—205 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1208), known as the Commonwealth Documents Law (CDL), or to the Regulatory Review Act (71 P. S. §§ 745.1—745.15).

Financial Impact

Act 71 and the regulations will provide for the implementation and management of gaming within this Commonwealth and the collection of fees and taxes from entities and individuals authorized by the Board to be employed by, provide gaming related services to or operate gaming facilities.

The appropriations from the Commonwealth for the implementation of Act 71 and costs of administering 4 Pa.C.S. Part II will be reimbursed by the licensed entities as specified in Act 71. Individuals and entities that wish to obtain licenses as gaming entities shall pay to the Gaming Fund significant licensing fees to obtain the authority to do business within this Commonwealth. Part of these fees shall reimburse the Board and the Pennsylvania State Police for licensing processes and background investigations. The licensing, registration, certification and permitting of individuals and other classes of applicants will be reimbursed by the applicants through fees established by the Board.

It is anticipated that expenses of the Board and associated activities will be reimbursed by the applicants

and gaming entities as previously specified. The Board has no financial impact on the State budget.

Statutory Authority

The Board is authorized under 4 Pa.C.S. § 1203(a) to adopt and publish temporary regulations to implement the policies and purposes of Act 71.

Regulatory Review

Under 4 Pa.C.S. § 1203(b), the Board's authority to adopt temporary regulations expires 2 years from the effective date of Act 71.

Findings

The Board finds that:

(1) Under 4 Pa.C.S. § 1203(a), the temporary regulations are exempt from the requirements of the Regulatory Review Act and sections 201—205 of the CDL.

(2) A 10-day public comment period was held prior to the adoption of the temporary regulations.

(3) The adoption of the temporary regulations provided by this order is necessary and appropriate for the administration of the authorizing statute.

Order

The Board, acting under the authorizing statute, orders that:

(a) The Board, acting under the authority of the Act 71, adopts as its final-form temporary regulations the draft regulations as amended by resolution at the May 19, 2006, public meeting. The temporary regulations pertain to self exclusion.

(b) The following temporary regulations of the Board, 58 Pa. Code Chapter 503, are added: §§ 503.1—503.6 to read as set forth in Annex A.

(c) The temporary regulations are effective May 19, 2006.

(d) The temporary regulations shall be posted in their entirety on the Board's website and published in the *Pennsylvania Bulletin*.

(e) The temporary regulations will be subject to amendment as deemed necessary by the Board in accordance with the purpose of Act 71 and to further the intent of Act 71.

(f) The Chairperson of the Board shall certify this order and deposit the regulations with the Legislative Reference Bureau as required by law.

THOMAS A. DECKER,
Chairperson

Fiscal Note: 125-25. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart I. COMPULSIVE AND PROBLEM GAMBLING

CHAPTER 503. SELF EXCLUSION

Sec.	
503.1.	Definitions.
503.2.	Scope of self exclusion.
503.3.	Request for self exclusion.
503.4.	Self-exclusion list.
503.5.	Duty of slot machine licensee.
503.6.	Removal from self-exclusion list.

§ 503.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Fully executed gaming transaction—Any activity involving a slot machine or associated equipment which occurs on the gaming floor of a licensed gaming facility and which results in an individual obtaining any money or thing of value from, or being owed any money or thing of value by, a slot machine licensee.

Self-excluded person—Any person whose name is included, at the person's own request, on the self-exclusion list maintained by the Board.

Self-exclusion list—A list of names of persons who, under this chapter, have voluntarily agreed to be excluded from all gaming activities and to be prohibited from collecting any winnings, recovering any losses or accepting complimentary gifts or services or any other thing of value at all licensed facilities.

Winnings—Any money or thing of value received from, or being owed by the licensed gaming entity as a result of a fully executed gaming transaction.

§ 503.2. Scope of self exclusion.

Self exclusion under this chapter only applies to the gaming floor of all licensed gaming facilities.

§ 503.3. Request for self exclusion.

(a) Any person may have the person's name placed on the self-exclusion list by submitting a request for self exclusion in the form and manner required by the Board.

(b) Any person requesting placement on the self-exclusion list shall submit, in person, a completed request for self exclusion as required by subsection (c).

(c) The request shall be presented to the Bureau. The Board may designate other locations for submission of completed requests for self exclusion in accordance with this chapter.

(d) A request for self exclusion must include the following identifying information:

- (1) Name, including any aliases or nicknames.
- (2) Date of birth.
- (3) Address of current residence.
- (4) Telephone number of current residence.

(5) Social Security number, when voluntarily provided in accordance with section 7 of the Privacy Act of 1974 (5 U.S.C. § 552a).

(6) Physical description of the person, including height, weight, gender, hair color, eye color and any other physical characteristic that may assist in the identification of the person.

(7) Government issued photo identification such as driver's license or passport.

(e) The information provided in subsection (d) shall be updated by the self-excluded person within 30 days of the change.

(f) The length of self exclusion requested by the person may be one of the following:

- (1) One year (12 months).
- (2) Five years.
- (3) Lifetime.

(g) A request for self exclusion must include a signed release which waives and forever discharges the Commonwealth, the Board, and all licensed gaming entities from any liability relating to any self-excluded person or to any other party in any judicial proceeding for any harm, monetary or otherwise, which may arise as a result of one or more of the following:

(1) The failure of a licensed gaming entity to withhold gaming privileges from or restore gaming privileges to a self-excluded person.

(2) Otherwise permitting or not permitting a self-excluded person to engage in gaming activity in a licensed facility while on the list of self-excluded persons.

(3) Disclosure by a licensed gaming entity of information regarding a self-excluded person to any person or group who is not affiliated with the licensed gaming entity.

(4) Disclosure of information regarding a self-excluded person by the Board.

(h) Any person submitting a request for self-exclusion shall sign the following statement:

"I am voluntarily requesting exclusion from all gaming activities at all licensed gaming facilities in the Commonwealth of Pennsylvania because I am a problem gambler. I certify that the information I have provided above is true and accurate, and I have read and understand and agree to the release included with this request for self exclusion. I am aware that my signature authorizes the Pennsylvania Gaming Control Board to direct all slot machine licensees to restrict my gaming activities in accordance with this request, and unless I have requested to be excluded for life, until such time as the Board removes my name from the self-exclusion list in response to my written request to terminate my voluntary self exclusion. I am aware and agree that during any period of self exclusion, I shall not collect any winnings or recover any losses resulting from any gaming activity at all licensed slot facilities, and any money or thing of value obtained by me from, or owed to me by, a slot machine licensee as a result of wagers made by me while on the self-exclusion list shall be subject to remittance to the Board."

(i) Self exclusions for 1 or 5 years remain in effect until the self-excluded person requests removal from the Board's self-exclusion list under § 503.6 (relating to removal from self-exclusion list).

(j) Any person submitting a self-exclusion request shall be required to present a government issued photo identification containing the person's signature and photograph.

(k) Any person requesting self exclusion under this chapter shall be required to have a photograph taken and be fingerprinted by the Board, or agent thereof, upon the Board's acceptance of the request to be on the list.

§ 503.4. Self-exclusion list.

(a) The Board will maintain the official self-exclusion list and notify each slot machine licensee of any addition to or deletion from the list by first class mail or by transmitting a notice by electronic means directly to each slot machine licensee.

(b) The notice provided by the Board will include the following information concerning any person whose name shall be added to the self-exclusion list:

(1) Name, including any aliases or nicknames.

(2) Date of birth.

(3) Address of current residence.

(4) Telephone number of current residence.

(5) Social security number, where voluntarily provided by the person requesting self exclusion under section 7 of the Privacy Act of 1974 (5 U.S.C. § 552a).

(6) Physical description of the person, including height, weight, gender, hair color, eye color and any other physical characteristic that may assist in the identification of the person.

(7) Copy of the photograph taken by the Board or Bureau under § 503.3(k) (relating to request for self exclusion).

(c) The notice provided by the Board will include the name and date of birth of any person whose name has been removed from the self-exclusion list.

(d) Each slot machine licensee shall maintain its own copy of the self-exclusion list and establish procedures to ensure that its copy of the self-exclusion list is updated and that all appropriate employees and agents of the slot machine licensee are notified of any addition to or deletion from the list within 5 business days after the day notice is mailed to each slot machine licensee or transmitted electronically under subsection (a).

(e) Information furnished to or obtained by the Board under this chapter will be deemed confidential and will not be disclosed except in accordance with this chapter.

(f) Slot machine licensees, employees or agents thereof may not disclose the name of, or any information about, any person who has requested self exclusion to anyone other than employees and agents of the slot machine licensee whose duties and functions require access to the information. Notwithstanding the foregoing, a slot machine licensee may disclose the name of and information about a self-excluded person to appropriate employees of other slot machine licensees in this Commonwealth or affiliated gaming entities in other jurisdictions from disclosing the identity of persons self excluded to other affiliated gaming entities in this Commonwealth or other jurisdiction for the limited purpose of assisting in the proper administration of responsible gaming programs operated by affiliated licensed gaming entities.

(g) A self-excluded person may not collect in any manner or in any proceeding any winnings or recover any losses arising as a result of any gaming activity for the entire period of time that the person is on the Board's self-exclusion list.

(h) Any winnings incurred by a self-excluded person shall be remitted to the Board and deposited into the Compulsive and Problem Gambling Treatment Fund.

(i) For the purposes of this section, any winnings issued to, found on or about, or redeemed by a self-excluded person shall be presumed to constitute winnings subject to remittance to the Board.

§ 503.5. Duty of slot machine licensee.

(a) Each slot machine licensee shall establish procedures that are designed, to the greatest extent practicable, to:

(1) Train appropriate employees of the slot machine licensee to identify a self-excluded person when present in a licensed gaming facility and, upon identification, notify the following persons:

(i) Employees of the slot machine licensee whose duties include the identification and removal of self-excluded persons.

(ii) Designated representatives of the Board.

(2) Refuse wagers from and deny any gaming privileges to any self-excluded person.

(3) Deny check cashing privileges, player club membership, complimentary goods and services, junket participation and other similar privileges and benefits to any self-excluded person.

(4) Ensure that self-excluded persons do not receive, either from the slot machine licensee or any agent thereof, junket solicitations, targeted mailings, telemarketing promotions, player club materials or other promotional materials relating to gaming activities at its licensed facility.

(5) Comply with § 503.4(d) (relating to self-exclusion list).

(6) Establish an employee training program consistent with section 1516 of the act (relating to list of persons self excluded from gaming activities) and § 501.4 (relating to employee training program), which also include:

(i) Procedures for the dissemination of written materials to patrons explaining the self-exclusion program.

(ii) Procedures to prevent any person placed on the self-exclusion list from having access to or from receiving complimentary services and discounts, or other like benefits.

(b) Each slot machine licensee shall submit a copy of its procedures established under subsection (a) to the Board 30 days prior to initiation of gaming activities at the licensed facility. Any amendments to these procedures shall be submitted to the Board at least 3 business days prior to their implementation. If the Board does not object to the procedures or amendments thereto, the procedures or amendments shall be deemed to be approved.

(c) The list of self-excluded persons shall be considered confidential, and any distribution of the list to an unauthorized source constitutes a violation of the act and subjects the disclosing party to sanctions the Board deems appropriate.

(d) Under section 1516 of the act and § 501.6(4) and (5) (relating to liability), licensed gaming entities and employees thereof may not be liable for damages in any civil action, which is based on the following:

(1) Failure to withhold gaming privileges from a self-excluded person.

(2) Permitting a self-excluded person to gamble.

(3) Disclosing the identity of a self-excluded person to someone other than those authorized by this chapter.

§ 503.6. Removal from self-exclusion list.

(a) Any self-excluded person may, upon the expiration of the period of self exclusion, request removal of the person's name from the self-exclusion list by submitting, in person, a completed request for removal as is required by subsection (b). The request shall be delivered to the Board. Any person submitting a request for removal from the list shall be required to present valid government issued photo identification credentials containing the person's signature and a photograph.

(b) A request for removal from the self-exclusion list must be in a form prescribed by the Board. The form must include:

(i) The identifying information specified in § 503.3(d)(1)—(7) (relating to request for self exclusion).

(ii) The signature of the person requesting removal from the self-exclusion list indicating acknowledgment of the following statement:

"I certify that the information that I have provided above is true and accurate. I am aware that my signature below constitutes a revocation of my previous request for self exclusion, and I authorize the Board to permit all slot machine licensees of the Commonwealth of Pennsylvania to reinstate my gaming privileges at licensed slot facilities."

(c) Within 5 business days, the Board will delete the name of the person requesting removal from the self-exclusion list and notify each slot machine licensee of the removal.

[Pa.B. Doc. No. 06-1054. Filed for public inspection June 9, 2006, 9:00 a.m.]

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CH. 511]

Temporary Regulations; Persons Required to be Excluded

The Pennsylvania Gaming Control Board (Board), under 4 Pa.C.S. § 1203(a) (relating to temporary regulations), adopts temporary regulations to facilitate implementation of 4 Pa.C.S. Part II (relating to gaming), enacted by the act of July 5, 2004 (P. L. 572, No. 71) (Act 71). The Board's temporary regulations will be added to Part VII (relating to Gaming Control Board). Chapter 511, entitled persons required to be excluded, is added to Subpart J, entitled exclusion of persons.

Purpose and Background

Under 4 Pa.C.S. § 1203(a), the Board is authorized to promulgate temporary regulations to facilitate the prompt implementation of Act 71. The regulations are necessary to enhance the credibility of the licensed operation of slot machines and associated equipment within this Commonwealth and to carry out the policy and purposes of the Board. To invite public input, the Board published draft regulations on the Board's website and a 10-day public comment period was provided.

Under 4 Pa.C.S. § 1203(b), the temporary regulations adopted by the Board expire no later than 3 years following the effective date of Act 71 or upon promulgation of regulations as generally provided by the law. These temporary regulations are not subject to sections 201—205 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1208), known as the Commonwealth Documents Law (CDL), or to the Regulatory Review Act (71 P. S. §§ 745.1—745.15).

Financial Impact

Act 71 and the regulations will provide for the implementation and management of gaming within this Commonwealth and the collection of fees and taxes from entities and individuals authorized by the Board to be employed by, provide gaming related services to or operate gaming facilities.

The appropriations from the Commonwealth for the implementation of Act 71 and costs of administering 4 Pa.C.S. Part II will be reimbursed by the licensed entities

as specified in Act 71. Individuals and entities that wish to obtain licenses as gaming entities shall pay to the Gaming Fund significant licensing fees to obtain the authority to do business within this Commonwealth. Part of these fees shall reimburse the Board and the Pennsylvania State Police for licensing processes and background investigations. The licensing, registration, certification and permitting of individuals and other classes of applicants will be reimbursed by the applicants through fees established by the Board.

It is anticipated that expenses of the Board and associated activities will be reimbursed by the applicants and gaming entities as previously specified. The Board has no financial impact on the State budget.

Statutory Authority

The Board is authorized under 4 Pa.C.S. § 1203(a) to adopt and publish temporary regulations to implement the policies and purposes of Act 71.

Regulatory Review

Under 4 Pa.C.S. § 1203(b), the Board's authority to adopt temporary regulations expires 2 years from the effective date of Act 71.

Findings

The Board finds that:

(1) Under 4 Pa.C.S. § 1203(a), the temporary regulations are exempt from the requirements of the Regulatory Review Act and sections 201—205 of the CDL.

(2) A 10-day public comment period was held prior to the adoption of the temporary regulations.

(3) The adoption of the temporary regulations provided by this order is necessary and appropriate for the administration of the authorizing statute.

Order

The Board, acting under the authorizing statute, orders that:

(a) The Board, acting under the authority of the Act 71, adopts as its final-form temporary regulations the draft regulations as amended by resolution at the May 19, 2006, public meeting. The temporary regulations pertain to persons required to be excluded.

(b) The following temporary regulations of the Board, 58 Pa. Code, are amended by adding §§ 511.1—511.10 to read as set forth in Annex A.

(c) The temporary regulations are effective May 19, 2006.

(d) The temporary regulations shall be posted in their entirety on the Board's website and published in the *Pennsylvania Bulletin*.

(e) The temporary regulations shall be subject to amendment as deemed necessary by the Board in accordance with the purpose of Act 71 and to further the intent of Act 71.

(f) The Chairperson of the Board shall certify this order and deposit the regulations with the Legislative Reference Bureau as required by law.

THOMAS A. DECKER,
Chairperson

Fiscal Note: 125-24. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart J. EXCLUSION OF PERSONS

CHAPTER 511. PERSONS REQUIRED TO BE EXCLUDED

Sec.	
511.1.	Definitions.
511.2.	Maintenance and distribution of the list.
511.3.	Criteria for exclusion.
511.4.	Duties of the Bureau of Investigations and Enforcement.
511.5.	Procedure for entry of names onto the exclusion list.
511.6.	Application for preliminary placement of a candidate on the exclusion list.
511.7.	Final order of exclusion.
511.8.	Information contained on the exclusion list.
511.9.	Duty of slot machine licensee.
511.10.	Petition to remove name from exclusion list.

§ 511.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings unless the context clearly indicates otherwise:

Candidate—A person whose name is included in a petition to be placed on the exclusion list under section 1514 of the act (relating to regulation requiring exclusion of certain persons) and this chapter.

Career or professional offender—Any person, who for the purpose of economic gain, engages in activities that are deemed criminal violations or contrary to the public policy of the Commonwealth and the act.

Cheat—

(i) To alter, without authorization, the elements of chance, method of selection or criteria which determine:

(A) The result of a slot machine game.

(B) The amount or frequency of payment in a slot machine game.

(C) The value of a wagering instrument.

(D) The value of a wagering credit.

(ii) The term does not include altering for required maintenance and repair.

(iii) The term includes an act or acts in any jurisdiction that would constitute any offense under section 1518 of the act (relating to prohibited acts and penalties).

Excluded person—A person who has been placed upon the exclusion list by preliminary or final order of the Board and who, under sections 1514 and 1515 of the act (relating to regulation requiring exclusion of certain persons; and repeat offenders excludable from licensed gaming facility) and this chapter, is required to be excluded or ejected from a licensed gaming facility.

Exclusion list—A list of names of persons who, under this chapter and sections 1514 and 1515 of the act, are required to be excluded or ejected from a licensed gaming facility, upon order of the Board after investigation by the Board or Bureau.

§ 511.2. Maintenance and distribution of the list.

(a) The Board will maintain a list of persons to be excluded or ejected from a licensed facility.

(b) The list will be open to public inspection at the Board's central office during normal business hours and will be distributed to every slot machine licensee within this Commonwealth, who shall acknowledge receipt thereof in writing or electronically.

(c) Each slot machine licensee shall have the responsibility to distribute copies of the list to its employees. Any additions, deletions or other updates to the list shall be distributed by each slot machine licensee to its employees within 2 business days of the slot machine licensee's receipt of the updates from the Board.

§ 511.3. Criteria for exclusion.

(a) The exclusion list may include a person who meets any of the following criteria:

(1) A career or professional offender whose presence in a licensed facility would, in the opinion of the Board, be inimical to the interest of the Commonwealth or a licensed gaming entity, or both.

(2) An associate of a career or professional offender whose presence in a licensed facility would be inimical to the interest of the Commonwealth or a licensed gaming entity, or both.

(3) A person who has been convicted of a criminal offense under the laws of any state, or of the United States, which is punishable by more than 1 year in prison, or who has been convicted of any crime or offense involving moral turpitude, and whose presence in a licensed facility would be inimical to the interest of the Commonwealth or a licensed gaming entity, or both.

(4) A person whose presence in a licensed facility would be inimical to the interest of the Commonwealth or licensed gaming therein, including:

(i) Cheats.

(ii) Persons whose gaming privileges, permits, licenses or other approvals have been suspended, revoked or denied.

(iii) Persons who pose a threat to the safety of the patrons or employees of a slot machine licensee.

(iv) Persons with a documented history of conduct involving the undue disruption of the gaming operations of slot machine licensees.

(v) Persons subject to an order of a court of competent jurisdiction in this Commonwealth excluding those persons from all licensed facilities.

(vi) Persons with pending charges or indictments for a gaming or gambling crime or a crime related to the integrity of gaming operations.

(vii) Persons who have been convicted of a gaming or gambling crime or crime related to the integrity of gaming operations.

(viii) Persons who have performed any act or have a notorious or unsavory reputation that would adversely affect public confidence and trust in gaming, including, being identified with criminal activities in published reports of various Federal and state legislative and executive bodies that have inquired into criminal or organized criminal activities.

(b) For purposes of subsection (a), a person's presence may be considered "inimical to the interest of the Commonwealth or of licensed gaming therein" if known attributes of the person's character and background meet one or more of the following criteria:

(1) Are incompatible with the maintenance of public confidence and trust in the credibility, integrity and stability of licensed slot operation.

(2) May reasonably be expected to impair the public perception of, and confidence in, the strict regulatory process created by the act.

(3) Create or enhance a risk of the fact or appearance of unsuitable, unfair or illegal practices, methods or activities in the conduct of gaming or in the business or financial arrangements incidental thereto.

(c) A finding of inimicality may be based upon the following:

(1) The nature and notoriety of the character or background of the person.

(2) The history and nature of the involvement of the person with licensed gaming in this Commonwealth or any other jurisdiction, or with any particular slot machine licensee or licensees or any affiliate, intermediary, subsidiary or holding company thereof.

(3) The nature and frequency of any contacts or associations of the person with any slot machine licensee or licensees, or with any employees or agents thereof.

(4) Any other factor reasonably related to the maintenance of public confidence in the efficacy of the regulatory process and the integrity of gaming operations, the gaming industry and its employees.

(d) A person's race, color, creed, national origin or ancestry, or sex will not be a reason for placing the name of any person upon the list.

§ 511.4. Duties of the Bureau

(a) The Bureau will, on its own initiative, or upon referral by the Board, investigate any individual who would appear to be an appropriate candidate for placement on the exclusion list.

(b) If, upon completion of an investigation, the Bureau determines that an individual should be placed on the exclusion list, the Bureau will file a petition for exclusion with the Board, identifying the candidate and setting forth a factual basis why the Bureau believes the candidate satisfies the criteria for exclusion set forth under section 1514 or 1515 of the act (relating to regulation requiring exclusion of certain persons; and repeat offenders excludable from licensed gaming facility) or this chapter.

(c) When the Bureau files a complaint alleging a violation of section 1514 of the act and § 511.9(a)(2) (relating to duty of slot machine licensee) against a licensee, the Bureau will file simultaneously a petition to exclude the person alleged in the complaint to meet the criteria for exclusion under § 511.3 (relating to criteria for exclusion).

(d) If, upon completion of an investigation undertaken upon referral by the Board, the Bureau determines that an individual should not be placed on the exclusion list, the Bureau will so recommend in writing to the Board.

§ 511.5. Procedure for entry of names onto the exclusion list.

The Board may place a person on the exclusion list as follows:

(1) Upon the filing of a petition by the Bureau in accordance with the procedures under section 1514(f) of the act (relating to regulation requiring exclusion of certain persons) and § 511.4 (relating to duties of the Bureau of Investigations and Enforcement).

(2) Upon receipt of an order from a court of competent jurisdiction within this Commonwealth, excluding the person from all licensed gaming facilities. The Board may consider the action upon receipt of the court order, after at least 30 days notice to the Bureau and to the person by certified mail at his last known address.

§ 511.6. Application for preliminary placement of a candidate on the exclusion list.

(a) In addition to filing a petition for exclusion, the Bureau may, in its discretion, file an application with the Board seeking preliminary placement of the candidate on the exclusion list pending completion of the plenary hearing on the petition for exclusion. An application for preliminary placement on the list will be supported by reliable documentary or other evidence.

(b) The Board may conduct a review of the application for preliminary placement and supporting material, and if the Board determines that the reliable documentary or other supporting evidence establishes a reasonable possibility that the candidate satisfies the criteria for exclusion established by section 1514 of the act (relating to regulation requiring exclusion of certain persons) and § 511.3 (relating to criteria for exclusion), the Board will issue a preliminary order placing the candidate on the exclusion list pending the issuance of a final order in accordance with § 511.7 (relating to final order of exclusion). Following the issuance of the preliminary order, the Board will notify the excluded individual in accordance with the notice and hearing procedures set forth under section 1514 of the act.

(c) Upon receipt of the exclusion notification, an excluded individual shall have 30 days to demand a hearing before the Board. Failure to demand a hearing within 30 days after service shall be deemed an admission of all matters and facts alleged in the Board's notice and a final order may be entered, placing the individual on the Board's exclude list.

(d) A preliminary order designating a candidate as an excluded person shall be effective upon its service upon slot machine licensees.

(e) The preliminary placement of a candidate on the exclusion list under section 1514 of the act and this chapter shall have the effect of requiring the exclusion or ejection of the excluded person from any licensed facility.

§ 511.7. Final order of exclusion.

The Board may issue a final order placing a person on the exclusion list after:

(1) Determining at a hearing that the person named for exclusion satisfies the criteria for exclusion established by the act or § 511.3 (relating to criteria for exclusion).

(2) Admission by the person named for exclusion of all matters and facts alleged in the Board's notice, either affirmatively, or through failure to request a hearing within 30 days of service of the exclusion notification.

§ 511.8. Information contained on the exclusion list.

The following information and data will be provided to the slot machine licensees for each excluded person:

(1) The full name and all aliases the person is believed to have used.

(2) A description of the person's physical appearance, including height, weight, type of build, color of hair and eyes and any other physical characteristics which may assist in the identification of the person.

(3) A date of birth.

(4) The effective date of the order mandating the exclusion or ejection of the person named therein.

(5) A photograph, if available, that is consistent with the standards of the Commonwealth Photo Imaging Network.

(6) The last known address of record.

(7) Other identifying information deemed necessary by the Board and the Bureau.

§ 511.9. Duty of slot machine licensee.

(a) A slot machine licensee shall exclude or eject the following persons from its licensed gaming facility:

(1) Any excluded person.

(2) Any person known to the slot machine licensee to satisfy the criteria for exclusion in section 1514 of the act (relating to regulation requiring exclusion of certain persons) and § 511.3 (relating to criteria for exclusion).

(b) If an excluded person enters, attempts to enter, or is in a licensed facility and is recognized by employees of the slot machine licensee, the slot machine licensee shall immediately notify the Board and Bureau of the fact in accordance with the procedures set forth by the Board.

(c) The Board may, upon request of any slot machine licensee or any person who has been excluded or ejected from a licensed facility under § 511.7 (relating to final order of exclusion), refer a matter to the Bureau for investigation to determine whether the person meets the criteria for exclusion provided in section 1514 of the act and § 511.3.

(d) It shall be the continuing duty of a slot machine licensee to inform the Board and the Bureau, in writing, of the names of persons the licensee believes are appropriate for placement on the exclusion list and the reason why the licensee believes those persons should be placed on the exclusion list.

(e) Licensed gaming entities or employees thereof will not be liable for damages in any civil action, which is based on the following:

(1) Failure to withhold gambling privileges from an excluded person.

(2) Permitting an excluded person to gamble.

(3) Excluding an excluded person from a licensed gaming facility as required under section 1514 of the act or this section.

§ 511.10. Petition to remove name from exclusion list.

(a) An excluded person may petition the Board to request a hearing concerning his removal from the list at any time after 5 years from the placement of the excluded person on the list by the Board.

(b) The petition must be signed, with supporting affidavits, and state the specific grounds believed by the petitioner to constitute good cause for removal from the list. Upon receipt of the petition, the Bureau will be given an opportunity to answer in writing.

(c) The Board may decide the petition on the basis of the documents submitted by the parties. The Board may summarily deny the petition or may grant the petition and direct that a hearing be held in accordance with section 1514(g) of the act (relating to regulation requiring exclusion of certain persons). The Board will grant the petition only upon a finding that there is new evidence, which is material and necessary, or that circumstances have changed since the placement of the excluded person on the list, and that there would be a reasonable likelihood that the Board would alter its previous decision.

(d) Any excluded person who is barred from requesting a hearing concerning his removal from the list under subsection (a) may petition the Board for early consideration at any time; however, an excluded person may not, within the 5 year period of exclusion, file more than one petition for early consideration. The petition must be verified, with supporting affidavits, and state any specific grounds upon which exclusion was based, and the facts

and circumstances which warrant the relief sought. Upon receipt of the petition, the Bureau will be given an opportunity to answer in writing. The Board may decide the petition on the basis of the documents submitted by the parties. The Board may summarily deny the petition or may grant the petition and direct that a hearing be held in accordance with section 1514(g) of the act. The Board will consider the following criteria when making its decision on a petition:

(1) Upon a finding that there exist extraordinary facts and circumstances warranting early consideration of the excluded person's request for removal from the list.

(2) If exclusion was ordered under § 511.5(a)(2) (relating to procedure for entry of names onto the exclusion list), upon a finding that the excluded person has completed the period of probation or otherwise satisfied the terms of any court-ordered exclusion.

[Pa.B. Doc. No. 06-1055. Filed for public inspection June 9, 2006, 9:00 a.m.]
